UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,818	10/22/2001	Yoshiaki Moriyama	Q66481	8300

7590 01/16/2008

SUGHRUE, MION, ZINN,
MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER	
KHOSHNOODI, NADIA	
ART UNIT	**PAPER NUMBER**
2137	

MAIL DATE	DELIVERY MODE
01/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/982,818	MORIYAMA, YOSHIAKI	
	Examiner	Art Unit	
	Nadia Khoshnoodi	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *1/10/2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-7,9-14,16-18,23,24,26-32,37,38 and 49-51* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-7,9-14,16-18,23,24,26-32,37,38 and 49-51* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 October 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/01-10-2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/18/2007 has been entered.

Response to Amendment

Claims 2-3, 8, 15, 19-22, 25, 33-36, 39-48 are cancelled. Applicant's arguments/amendments with respect to amended claims 1, 7, 9-10, 18, 24, 26-27, 32, & 38 and previously presented claims 4-6, 12, 14, 16-17, 23, 29, 31, 37, & 49-50 filed 10/18/2007 have been fully considered but they are not persuasive. Applicant's arguments/amendments with respect to claims 11, 13, 28, 30, & 51 have been fully considered and therefore are rejected under new grounds.

Response to Arguments

Applicants contend that the combination of Inoue et al. and Morito et al. fails to teach/suggest "wherein the recording information is to be prohibited from being copied after being recorded into the recording medium, the generating device generates No More Copy information as the copy control information and the information recording apparatus records the recording information and the copy control information which are multiplexed by the multiplexing device included in the information output device, into the recording medium

without modifying the copy control information." Examiner respectfully disagrees. Inoue et al. teach that there is copy control information which is multiplexed, i.e. combined with another signal, with the recording information in order to limit the number of copies that could be made legally (col. 8, lines 10-58, among other portions cited throughout the reference). Specifically, in the previous citation, Inoue et al. disclose that the copy control information, at every stage, represents the number of copies left which are legally reproducible. Since Inoue et al. did not specifically disclose the use of the string "No More Copy" as the copy control information, Morito et al., who suggest that further illegal recordings may be prevented when a No-More-Copy signal is put in place of the copy control information, was combined with Inoue et al. in order to result in the limitation Applicants contend distinguishes over the prior arts of record. Furthermore, Examiner would like to point out that the amendment to claim 1, for example, which added "which are multiplexed by the multiplexing device included in the information output device" really only indicates that the recording information and the copy control information are combined into a signal and put in the information output device, were Inoue et al. teach this limitation in col. 8, lines 42-58. Thus, the combination of Inoue et al. and Morito et al. teach/suggest wherein the recording information is to be prohibited from being copied after being recorded into the recording medium, the generating device generates No More Copy information as the copy control information and the information recording apparatus records the recording information and the copy control information which are multiplexed by the multiplexing device included in the information output device, into the recording medium without modifying the copy control information.

Due to the reasons stated above, the Examiner maintains rejections with respect to the pending claims. The prior arts of records taken singly and/or in combination teach the limitations that the Applicant suggests distinguish from the prior art. Therefore, it is the Examiner's conclusion that the pending claims are not patentably distinct or non-obvious over the prior art of record as presented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4-7, 9-14, 16-18, 23-24, 26-29, 30-32, 37-38, and 49-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 1, 7, 9-10, 18, 24, 26-27, 32, and 38:

It is unclear how these claims carry out the step of "the generating device generates No More Copy information as the copy control information and the information recording apparatus records the recording information and the copy control information...into the recording medium without modifying the copy control information." The Examiner was unable to locate in the detailed description of the specification originally filed by Applicants where this step is explained. At most, the Examiner only found portions in the summary section which mention the phrase "without modifying the copy control information," but do not yield further explanation with regards to how new copy control information is generated and recorded without modifying the copy control information in the recording medium. In order to further treat these

claims on their merits the Examiner will interpret this limitation to imply that the copy control information is modified before the copy is made to indicate "No More Copy" whereas when the recording process has complete it is not modified again. In the instance that Examiner has overlooked the portion of the detailed description of the Applicants Specification with regards to the "without modifying the copy control information" portion, Applicants are asked to point out where the details regarding how this portion of the process works appear in the Specification.

As per claims 12, 23, and 29:

Claim 12, 23, and 29 recite the limitation "the output speed" in line 3 (of claim 12), 7 (of claim 23), and line 4 (of claim 29). There is insufficient antecedent basis for this limitation in the claim.

As per claims 4-6, 11, 13-14, 16-17, 23, 28, 30-31, 37, and 49-50:

These claims are rejected by virtue of their dependency.

Claim Rejections - 35 USC § 102

I. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

II. Claim 51 is rejected under 35 U.S.C. 102(a) as being fully anticipated by Sako et al., US Patent No. 7,251,327.

As per claim 51:

Sako et al. teach an information output apparatus comprising: a determining device for determining whether an outputting speed is higher than a reproducing speed of the recording information from the recording medium (col. 9, lines 1-10); a generating device for generating first copy control information indicating a number of times which the recording information can be recorded after being recorded into the recording medium if it is determined that the outputting speed is higher than the reproducing speed (col. 9, lines 11-20), and for generating second copy control information indicating a number of times which the recording information can be recorded before being recorded into the recording medium if it is determined that the outputting speed is not higher than the reproducing speed (col. 9, lines 21-29); a multiplexing device for multiplexing the first or second copy control information, which is generated by the generating device, and the recording information (col. 10, lines 7-20); and an outputting device for outputting the multiplexed information to the information recording apparatus (col. 10, lines 14-30).

Claim Rejections - 35 USC § 103

III. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

IV. Claims 1, 4, 6-7, 9-10, 16, 18, 23-24, 26-27, 32, and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., US Patent No. 6,539,468, and further in view of Morito et al., US Patent No. 6,310,956.

As per claims 1, 18, and 32:

Inoue et al. teach an information output apparatus, method, and output control program on an information recording medium comprising a generating device for generating copy control information indicating a number of times which the recording information can be recorded (col. 4, lines 16-36); a multiplexing device for multiplexing the copy control information, which is generated by the generating deice, and the recording information (col. 6, lines 20-24); and an output device for outputting the multiplexed information to the information recording apparatus (col. 6, lines 25-59), wherein, if the recording information is to be prohibited from being copied after being recorded into the recording medium, the generating device generates a sign that indicates no more copies are allowed as the copy control information and the information recording apparatus records the recording information and the copy control information, which are multiplexed by the multiplexing device included in the information output device, into the recording medium without modifying the copy control information (col. 6, line 60 – col. 7, line 5; col. 7, line 65 – col. 8, line 23; and col. 8, lines 43-58).

Not explicitly disclosed is wherein the generating device generates "No More Copy" information as the copy control information. However, Morito et al. teach a scenario where once a copy has been made, no more copies are allowed and thus a "No-More-Copy" signal is used (col. 8, lines 50-59). Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to specifically use a "No-More-Copy" signal as the copy control information. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have

been motivated to do so since Morito et al. suggest that further illegal recordings may be prevented when a No-More-Copy signal is put in place in col. 9, lines 1-13.

As per claims 4 and 16:

Inoue et al. teach the information output apparatus and method as applied to claims 1, 9, 18, and 32. Furthermore, Inoue et al. teach the apparatus, method, and program on an information recording medium, wherein the output device outputs the multiplexed recording information and copy control information to the information recording apparatus through an electric communication line (col. 6, lines 36-50).

As per claims 6, 23, and 37:

Inoue et al. teach the information output apparatus, method, and output control program on an information recording medium as applied to claims 1, 18, and 32. Furthermore, Inoue et al. teaches the apparatus, method, and program on an information recording medium, wherein the output device further comprises a converting device for converting the multiplexed recording information and copy control information into a recording information and copy control information in conformity with a recording format used for recording the information into the recording medium in the information recording apparatus, to output the converted information to the information recording apparatus, when outputting the multiplexed recording information and copy control information to the information recording apparatus at the output speed (fig. 6, step S610).

As per claim 7:

Inoue et al. teach an information output apparatus comprising a generating device for generating copy control information indicating a number of times which the recording

information can be recorded (col. 4, lines 16-36); a multiplexing device for multiplexing the copy control information, which is generated by the generating deice, and the recording information (col. 6, lines 20-24); and an output device for outputting the multiplexed information to the information recording apparatus (col. 6, lines 25-59), wherein, if the recording information is to be prohibited from being copied after being recorded into the recording medium, the generating device generates a sign that indicates no more copies are allowed as the copy control information, and the information recording apparatus records the recording information and the copy control information, which are multiplexed by the multiplexing device included in the information output device, into the recording medium without modifying the copy control information (col. 6, line 60 – col. 7, line 5; col. 7, line 65 – col. 8, line 23; and col. 8, lines 43-58); said information recording apparatus comprising: an obtaining device for obtaining the output recording information and copy control information (col. 7, line 50- col. 8, line 9); and a recording device for recording the obtained recording information and copy control information into the recording medium (col. 8, lines 53-58), without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

Not explicitly disclosed is wherein the generating device generates "No More Copy" information as the copy control information. However, Morito et al. teach a scenario where once a copy has been made, no more copies are allowed and thus a "No-More-Copy" signal is used (col. 8, lines 50-59). Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to specifically use a "No-More-Copy" signal as the copy control information. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have

been motivated to do so since Morito et al. suggest that further illegal recordings may be prevented when a No-More-Copy signal is put in place in col. 9, lines 1-13.

As per claims 9 and 26:

Inoue et al. teach an information output apparatus and method comprising a generating device for generating copy control information indicating a number of times which the recording information can be recorded (col. 4, lines 16-36); a multiplexing device for multiplexing the copy control information, which is generated by the generating deice, and the recording information (col. 6, lines 20-24); and an output device for outputting the multiplexed information to the information recording apparatus (col. 6, lines 25-59), wherein, if the recording information is to be prohibited from being copied after being recorded into the recording medium, the generating device generates a sign that indicates no more copies are allowed as the copy control information, and the information recording apparatus records the recording information and the copy control information, which are multiplexed by the multiplexing device included in the information output device, into the recording medium without modifying the copy control information (col. 6, line 60 – col. 7, line 5; col. 7, line 65 – col. 8, line 23; and col. 8, lines 43-58); said information recording apparatus comprises: an obtaining device for obtaining the output recording information and copy control information (col. 7, line 50- col. 8, line 9); and a recording device for recording the obtained recording information and copy control information into the recording medium, without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

Not explicitly disclosed is wherein the generating device generates "No More Copy" information as the copy control information. However, Morito et al. teach a scenario where once

a copy has been made, no more copies are allowed and thus a "No-More-Copy" signal is used (col. 8, lines 50-59). Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to specifically use a "No-More-Copy" signal as the copy control information. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Morito et al. suggest that further illegal recordings may be prevented when a No-More-Copy signal is put in place in col. 9, lines 1-13.

As per claim 10:

Inoue et al. teach an information output apparatus comprising a generating device for generating copy control information indicating a number of times which the recording information can be recorded (col. 4, lines 16-36); a multiplexing device for multiplexing the copy control information, which is generated by the generating deice, and the recording information (col. 6, lines 20-24); and an output device for outputting the multiplexed information to the information recording apparatus (col. 6, lines 25-59), wherein, if the recording information is to be prohibited from being copied after being recorded into the recording medium, the generating device generates a sign that indicates no more copies are allowed as the copy control information, and the information recording apparatus records the recording information and the copy control information, which are multiplexed by the multiplexing device included in the information output device, into the recording medium without modifying the copy control information (col. 6, line 60 – col. 7, line 5; col. 7, line 65 – col. 8, line 23; and col. 8, lines 43-58); and said information recording apparatus comprises: the obtaining device for obtaining the output recording information and copy control information to output the same to the information

recording apparatus (col. 7, line 50- col. 8, line 9); and a recording device for recording the output recording information and copy control information into the recording medium, without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

Not explicitly disclosed is wherein the generating device generates "No More Copy" information as the copy control information. However, Morito et al. teach a scenario where once a copy has been made, no more copies are allowed and thus a "No-More-Copy" signal is used (col. 8, lines 50-59). Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to specifically use a "No-More-Copy" signal as the copy control information. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Morito et al. suggest that further illegal recordings may be prevented when a No-More-Copy signal is put in place in col. 9, lines 1-13.

As per claims 24 and 38:

Inoue et al. teach an information output method and output control program on an information recording medium comprising a generating device for generating copy control information indicating a number of times which the recording information can be recorded (col. 4, lines 16-36); a multiplexing device for multiplexing the copy control information, which is generated by the generating deice, and the recording information (col. 6, lines 20-24); and an output device for outputting the multiplexed information to the information recording apparatus (col. 6, lines 25-59), wherein, if the recording information is to be prohibited from being copied after being recorded into the recording medium, the generating device generates a sign that indicates no more copies are allowed as the copy control information, and the information

recording apparatus records the recording information and the copy control information, which are multiplexed by the multiplexing device included in the information output device, into the recording medium without modifying the copy control information (col. 6, line 60 – col. 7, line 5; col. 7, line 65 – col. 8, line 23; and col. 8, lines 43-58); said information recording apparatus comprising: obtaining the output recording information and copy control information (col. 7, line 50- col. 8, line 9); and recording the obtained recording information and copy control information into the recording medium (col. 8, lines 53-58), without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

Not explicitly disclosed is wherein the generating device generates "No More Copy" information as the copy control information. However, Morito et al. teach a scenario where once a copy has been made, no more copies are allowed and thus a "No-More-Copy" signal is used (col. 8, lines 50-59). Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to specifically use a "No-More-Copy" signal as the copy control information. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Morito et al. suggest that further illegal recordings may be prevented when a No-More-Copy signal is put in place in col. 9, lines 1-13.

As per claim 27:

Inoue et al. teach an information output method and output control program on an information recording medium comprising a generating device for generating copy control information indicating a number of times which the recording information can be recorded (col. 4, lines 16-36); a multiplexing device for multiplexing the copy control information, which is

generated by the generating deice, and the recording information (col. 6, lines 20-24); and an output device for outputting the multiplexed information to the information recording apparatus (col. 6, lines 25-59), wherein, if the recording information is to be prohibited from being copied after being recorded into the recording medium, the generating device generates a sign that indicates no more copies are allowed as the copy control information, and the information recording apparatus records the recording information and the copy control information, which are multiplexed by the multiplexing device included in the information output device, into the recording medium without modifying the copy control information (col. 6, line 60 – col. 7, line 5; col. 7, line 65 – col. 8, line 23; and col. 8, lines 43-58); and said information recording apparatus comprises: the obtaining device for obtaining the output recording information and copy control information to output the same to the information recording apparatus (col. 7, line 50- col. 8, line 9); and a recording device for recording the output recording information and copy control information into the recording medium, without modifying the copy control information (col. 7, line 65 – col. 8, line 9).

Not explicitly disclosed is wherein the generating device generates "No More Copy" information as the copy control information. However, Morito et al. teach a scenario where once a copy has been made, no more copies are allowed and thus a "No-More-Copy" signal is used (col. 8, lines 50-59). Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. to specifically use a "No-More-Copy" signal as the copy control information. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have

been motivated to do so since Morito et al. suggest that further illegal recordings may be prevented when a No-More-Copy signal is put in place in col. 9, lines 1-13.

V. Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 and Morito et al., US Patent No. 6,310,956 as applied to claims 4 and 16 above, and further in view of Manabu et al., United States Patent No. 6,453,304.

As per claims 5 and 17:

Inoue et al. and Morito et al. substantially teach the apparatus and method as applied to claims 4 and 16 above. Not explicitly disclosed is the apparatus and method, wherein the electric communication line is at least any one of the Internet line, a ground wave digital line, a satellite communication line, and a cable television line. However, Manabu et al. teach a similar apparatus, method, and program on an information recording medium where a digital broadcast is connected to the recording device. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the apparatus and method program on an information recording medium disclosed in Inoue et al. and Morito et al. to allow for the electric communication line to be one of those mentioned above. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Manabu et al. in col. 10, lines 22 – 30.

VI. Claims 11 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 and Morito et al., US Patent No. 6,310,956 as applied to claims 10 and 27 above, and further in view of Sako et al., US Patent No. 7,251,327.

As per claims 11 and 28:

Inoue et al. and Morito et al. teach the information output recording system and method as applied to claims 10 and 27 above. Not explicitly disclosed is a recognizing device for mutually recognizing the type of the devices between the obtaining device and the information recording apparatus; and a recording control device for controlling the recording device so as to record the recording information and copy control information into the recording medium, only when recognizing that the recording information and copy control information has been output at the higher output speed from the obtaining device, based on the recognition result in the recognizing device.

However, Sako et al. teach the system and method, wherein said information recording apparatus comprises: a recognizing device for mutually recognizing the type of the devices between the obtaining device and the information recording apparatus (col. 9, lines 1-6); and a recording control device for controlling the recording device so as to record the recording information and copy control information into the recording medium, only when recognizing that the recording information and copy control information has been output at the higher output speed from the obtaining device, based on the recognition result in the recognizing device (col. 9, lines 7-32).

Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. and Morito et al. to record the recording information and copy control information into the recording medium, only when recognizing that the recording information and copy control information has been output at the higher output speed from the obtaining device, based on the recognition result in the recognizing device. This modification would have been obvious because a person having ordinary skill in the art, at the

time the invention was made, would have been motivated to do so since Sako et al. suggest that the speed of reproducing the signal may be used in determining copy permission data in order to prevent from illegal copies in col. 9, lines 7-10 and col. 10, lines 7-20.

VII. Claims 12, 14, 29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 and Morito et al., US Patent No. 6,310,956 as applied to claims 10 and 27 above, and further in view of Nissl et al., United States Patent No. 6,530,023.

As per claims 12 and 29:

Inoue et al. and Morito et al. substantially teach the information output recording system and method as applied to claims 10 and 27 above. Furthermore, Inoue et al. teaches the system and method, wherein the obtaining device outputs the obtained recording information and copy control information to the information recording apparatus at the output speed, after performing encryption processing (col. 10, lines 31-55). Not explicitly disclosed is the encryption processing corresponding to only the output speed. However, Nissl et al. teach having an encryption process corresponding to the output speed. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. and Morito et al. to have the encryption process corresponding to only the output speed. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Nissl et al. in col. 5, lines 13-16, 28-30, and 36-39.

As per claims 14 and 31:

Inoue et al., Morito et al., and Nissl et al. substantially teach the information output recording system and method as applied to claims 12 and 29 above. Furthermore, Inoue et al. teach the system and method, wherein said information recording apparatus further comprises: a decoding device for decoding the output recording information and copy control information; and a recording encryption device for recording the decoded recording information and copy control information into the recording medium, after performing the predetermined encryption processing for recording on the information (col. 10, lines 26-55).

VIII. Claims 13 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468; Morito et al., US Patent No. 6,310,956; and Nissl et al., United States Patent No. 6,530,023as applied to claims 12 and 29 above, and further in view of Sako et al., US Patent No. 7,251,327.

As per claims 13 and 30:

Inoue et al., Morito et al., and Nissl et al. substantially teach the information output recording system and method as applied to claims 12 and 29 above. Not explicitly disclosed is a determination device for determining whether or not the recording information and copy control information has been output from the obtaining device, according to the encryption processing in the output recording information and copy control information, and a recording control device for controlling the recording device so as to record the recording information and copy control information into the recording medium, only when it proves that the recording information and copy control information has been output from the obtaining device at the higher speed, according to the determination result in the determination device.

However, Sako et al. teach the system and method, wherein said information recording apparatus comprises: a determination device for determining whether or not the recording information and copy control information has been output from the obtaining device, according to the encryption processing in the output recording information and copy control information, and a recording control device for controlling the recording device so as to record the recording information and copy control information into the recording medium (col. 9, lines 1-6), only when it proves that the recording information and copy control information has been output from the obtaining device at the higher speed, according to the determination result in the determination device (col. 9, lines 7-32).

Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Inoue et al. and Morito et al. to record the recording information and copy control information into the recording medium, only when recognizing that the recording information and copy control information has been output at the higher output speed from the obtaining device, based on the recognition result in the recognizing device. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Sako et al. suggest that the speed of reproducing the signal may be used in determining copy permission data in order to prevent from illegal copies in col. 9, lines 7-10 and col. 10, lines 7-20.

IX. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 and Morito et al., US Patent No. 6,310,956 as applied to claim 1 above, and further in view of Videcrantz et al., United States Patent No. 6,275,588.

As per claim 49:

Inoue et al. substantially teach the information output apparatus of claim 1. Not explicitly disclosed is the apparatus further comprising an encryption method changing device for changing encryption method on the basis of the outputted information speed. However, Videcrantz et al. teach that the time consumption allowed for encryption extraction depends on many factors, one of those factors being the type of encryption algorithm used. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the apparatus disclosed in Inoue et al. to change the encryption method on the basis of the outputted information speed. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Videcrantz et al. in col. 21, line 64 – col. 22, line 24.

X. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., United States Patent No. 6,539,468 and Morito et al., US Patent No. 6,310,956 as applied to claim 7 above, and further in view of Manabu et al., United States Patent No. 6,453,304 and Videcrantz et al., United States Patent No. 6,275,588.

As per claim 50:

Inoue et al. substantially teach the information recording apparatus of claim 7. Not explicitly disclosed is the apparatus further comprising an encryption method detecting device for detecting encryption method of inputted information; and a switching device for switching the inputted information on the basis of the detected encryption method. However, Manabu et al. teach that the encryption key is chosen based on the copy control information, thus it is detected depending on the control information as well. Inoue et al. substantially teach the information output apparatus of claim 1. Therefore, it would have been obvious to a person in the art at the

time the invention was made to modify the apparatus disclosed in Inoue et al. to detect the encryption key of the inputted information and then switch that information based on the detected encryption key in order to process it correctly. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Manabu et al. in col. 7, line 40 – col. 8, line 3.

Also not explicitly disclosed is that the encryption method is detected and switched. However, Videcrantz et al. teach that one can choose an encryption algorithm based on the transmission rate/time consumption allowed. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the apparatus disclosed in Inoue et al. and Morito et al. to detect the encryption method of the inputted information and then switch that information based on the detected encryption method in order to process it correctly. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since it is suggested by Videcrantz et al. in col. 21, line 64 – col. 22, line 24.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadia Khoshnoodi whose telephone number is (571) 272-3825. The examiner can normally be reached on M-F: 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nadia Khoshnoodi
Examiner
Art Unit 2137
1/10/2008

NK

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER